THE HONOURABLE SHRI JUSTICE R.SUBHASH REDDY

WRIT PETITION No. 33783 OF 1998

Dated 4th April, 2007

Between:

Syed Zaheer Hussain

…Petitioner

And

Commissioner, Municipal Corporation of Hyderabad.

…Respondent

ORAL ORDER:

In this writ petition, the petitioner seeks a declaration that the action of the respondent in taking steps for demolition of structures bearing Municipal No. 13-6-431/48 situated at Mogal-Ka-Nala, Hyderabad is illegal.

In the affidavit filed in support of the writ petition, it is stated that the petitioner along with his wife are the owners and possessors of an extent of 400 sq. yards bearing Municipal No. 13-6-431/8/48 situated at Mogal-ka-Nala at Hyderabad. It is stated that in the constructed portion, he is running a small hotel and he also extended the structures by obtaining permission on 24.8.1998. However, the respondent by his notice dated 9.11.1998 issued under Section 452 of the Hyderabad Municipal Corporation Act, 1956 called for explanation from the petitioner pointing out certain contraventions which are as under:

> Unauthorised construction of Ground Floor RCC Slab partly i.e. westernside and laid RCC slab of First floor which is violated by building bye-laws and Z.R. of 1981 and u/s 428, 433 of HMC Act, 1955.

It is stated that the petitioner filed his explanation to the said shown cause notice on 30.11.1998 and no further orders have been passed. In spite of the same, the respondent was taking steps for demolition.

There is no basis for the apprehension of the petitioner as no orders have been passed after filing of the explanation by the petitioner. At the stage of admission, this court by order dated 3.12.1998 granted stay of demolition of the structures. The said order continued all along and no counter affidavit is filed on behalf of the respondent-Corporation.

As much as it is stated that pursuant to notice dated 9.11.1998, explanation was filed on 30.11.1998 and no orders were passed and communicated to the petitioner and in the absence of counter affidavit by the respondent, I dispose of the writ petition directing the respondent to consider the explanation of the petitioner dated 30.11.1998 filed in response to notice dated 9.11.1998 and pass appropriate orders, if not already passed. If no orders are passed, till such orders are passed by considering the explanation dated 30.11.1998 of the petitioner, no steps shall be taken to demolish the structures. It is also made clear that if final orders are already passed, it is open for the respondents to take steps accordingly.

Subject to above directions, the writ petition is disposed of. No costs.

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4-4-2007

R.SUBHASH REDDY, J.

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